

### **REMARKS**

The Office Action mailed October 18, 2006, has been received and reviewed. Each of claims 1-42 stands rejected. More specifically, claims 1-18, 20-33, and 35-39 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Publication No. 2004/0174434 to Walker et al. (hereinafter the "Walker reference"). Claims 19, 34, and 40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Walker reference. Claims 41 and 42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Walker reference in view of U.S. Patent No. 6,636,260 to Kiyokawa (hereinafter the "Kiyokawa reference"). Reconsideration of the present application in view of the above amendments and the following remarks is respectfully requested.

#### **Summary of Telephonic Interview**

Applicants would like to thank Examiner Madden and Examiner Vu for granting an interview on December 13, 2006 and for considering proposed amendments and arguments regarding the deficiencies in the prior art, including the Walker reference and the Kiyokawa reference.

During the interview, Applicants attempted to clarify that the claimed invention involves an intelligent image system and method that automatically determines settings changes for a image capturing device. The cited prior art, specifically the Walker reference, discloses a image suggesting system that requires user interaction to determine the appropriate settings changes. Examiner Madden and Examiner Vu suggested that Applicants amend the claims to further clarify the distinctions between the cited prior art and the claimed invention. The present communication is respectfully submitted in this regard.

### **Amendments to the Claims**

Claims 1, 12, 20, 29, 35, and 41 have been amended. Care has been exercised to avoid the introduction of new matter. Support for the amendments can be found in the Specification. *See, e.g., Specification* at p. 13, ¶ [0045].

### **Rejections based on 35 U.S.C. § 102(e)**

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdeggal Brothers v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 19133, 1920 (Fed. Cir. 1989). *See also*, MPEP § 2131.

Claims 1-18, 20-33, and 35-39 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the Walker reference. As the Walker reference does not describe, either expressly or inherently, each and every element of the rejected claims, Applicants respectfully traverse the rejection, as hereinafter set forth.

As currently amended, independent claim 1 recites a method for optimizing an image capturing device which comprises, in part, *automatically* determining adjustments, *without prompting a user*, for optimizing the image capturing device. As stated in the Specification, the present invention is directed toward a method for optimizing a image capturing system in which the image capturing device uploads information, “the device settings and metadata are sent to appropriate storage,” and “if subsequent analysis shows that adjustments to the device settings are desirable . . . [adjustments are downloaded] to the image capturing device.” *Specification* at p. 13, ¶ [0045].

By way of contrast, the Walker reference discloses a system for suggesting metadata to a camera user. *See generally Walker reference.* More particularly, in order to determine the appropriate metadata to suggest to the camera user, the Walker reference discloses that the camera will “output various different types of questions to a user.” *Walker reference* at p. 9, ¶ [0122]; *see also Walker reference* at p. 15, ¶ [0277] (noting that there are various ways to output questions to the user). The suggestion system disclosed in the Walker reference relies upon outputting questions to the camera user about the camera user’s environment and relying on the responses to the outputted questions to determine appropriate settings adjustments to suggest to the camera user. *See generally Walker reference.* Although the Walker reference does disclose assuming a default response to a question where the user does not respond, the suggestion system disclosed in the Walker reference is different than the method of claim 1 because, in the present invention, the user is not prompted at all before determining adjustments. *See Walker reference* at p. 26, ¶ [0471]. Thus, the Walker reference is contrary to the method for optimizing an image capturing device of claim 1 wherein the method will *automatically* determine adjustments *without prompting a user*.

Accordingly, it is respectfully submitted that the Walker reference fails to describe, either expressly or inherently, each and every element of the currently amended independent claim 1. Thus, claim 1 is not anticipated by the Walker reference. Therefore, withdrawal of the 35 U.S.C. § 102(e) rejection of this claim is respectfully requested.

With reference to independent claim 12, as amended, a system is recited for optimizing an image capturing device which comprises, in part, optimization tools for *automatically* optimizing the image capturing device *without prompting a user*. By way of contrast, as previously stated, the Walker reference discloses a system for suggesting metadata to

a camera user that determines the appropriate metadata based on the user's response to questions. Accordingly, it is respectfully submitted that the Walker reference fails to describe, either expressly or inherently, each and every element of the currently amended independent claim 12. Thus, claim 12 is not anticipated by the Walker reference. Therefore, withdrawal of the 35 U.S.C. § 102(e) rejection of this claim is respectfully requested.

With reference to independent claim 20, as amended, a method is recited for analyzing captured images which comprises, in part, *automatically* determining one or more adjustments to optimize an image capturing device *without prompting a user*. By way of contrast, as previously stated, the Walker reference discloses a system for suggesting metadata to a camera user that determines the appropriate metadata based on the user's response to questions. Accordingly, it is respectfully submitted that the Walker reference fails to describe, either expressly or inherently, each and every element of the currently amended independent claim 20. Thus, claim 20 is not anticipated by the Walker reference. Therefore, withdrawal of the 35 U.S.C. § 102(e) rejection of this claim is respectfully requested.

With reference to independent claim 29, a system is recited for optimizing an image capturing device which comprises, in part, optimization tools for *automatically* determining how to optimize the image capturing device *without prompting a user*. By way of contrast, as previously stated, the Walker reference discloses a system for suggesting metadata to a camera user that determines the appropriate metadata based on the user's response to questions. Accordingly, it is respectfully submitted that the Walker reference fails to describe, either expressly or inherently, each and every element of the currently amended independent claim 29. Thus, claim 29 is not anticipated by the Walker reference. Therefore, withdrawal of the 35 U.S.C. § 102(e) rejection of this claim is respectfully requested.

With reference to independent claim 35, a system is recited for improving the quality of images captured by an image capturing device which comprises, in part, means for *automatically* determining appropriate corrective measures *without prompting a user*. By way of contrast, as previously stated, the Walker reference discloses a system for suggesting metadata to a camera user that determines the appropriate metadata based on the user's response to questions. Accordingly, it is respectfully submitted that the Walker reference fails to describe, either expressly or inherently, each and every element of the currently amended independent claim 35. Thus, claim 35 is not anticipated by the Walker reference. Therefore, withdrawal of the 35 U.S.C. § 102(e) rejection of this claim is respectfully requested.

As the Walker reference fails to describe, either expressly or inherently, each and every element of independent claims 1, 12, 20, 29, and 35, as amended herein, it is respectfully submitted that these claims are not anticipated by the Walker reference. Each of claims 2-11, 13-18, 21-28, 30-33, and 36-39 depends, either directly or indirectly, from one of claims 1, 12, 20, 29, and 35 and is, accordingly, not anticipated by the Walker reference for at least the above-cited reasons. Accordingly, withdrawal of the 35 U.S.C. § 102(e) rejection of claims 1-18, 20-33, and 35-39 is respectfully requested.

**Rejections based on 35 U.S.C. § 103(a)**

The requirements of a *prima facie* case of obviousness are summarized in MPEP § 2143 through § 2143.03. In order “[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success [in combining the references]. Finally, the prior art reference (or references when

combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).” See MPEP § 2143. Further, in establishing a *prima facie* case of obviousness, the initial burden is placed on the Examiner. “To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 USPQ 972, 972, (Bd. Pat App. & Inter. 1985).” *Id.* See also MPEP § 706.02(j) and § 2142.

Claims 19, 34, and 40 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Walker reference. As a *prima facie* case of obviousness has not been established, Applicants respectfully traverse this rejection as hereinafter set forth.

Claim 19 depends from independent claim 12 which, as amended, recites a system for optimizing an image capturing device which comprises, in part, optimization tools for *automatically* optimizing the image capturing device. For the reasons cited above, the Walker reference fails to teach or suggest all limitations of currently amended independent claim 12. Applicants respectfully submit that claim 19 is allowable at least by virtue of its dependency from allowable claim 12.

Claim 34 depends from independent claim 29 which, as amended, recites a system for optimizing an image capturing device which comprises, in part, optimization tools for *automatically* determining how to optimize the image capturing device. For the reasons cited above, the Walker reference fails to teach or suggest all limitations of currently amended

independent claim 29. Applicants respectfully submit that claim 34 is allowable at least by virtue of its dependency from allowable claim 29.

Claim 40 depends from independent claim 35 which, as amended, recites a system for improving the quality of images captured by an image capturing device which comprises, in part, means for *automatically* determining appropriate corrective measures. For the reasons cited above, the Walker reference fails to teach or suggest all limitations of currently amended independent claim 35. Applicants respectfully submit that claim 40 is allowable at least by virtue of its dependency from allowable claim 35.

Further, claims 41 and 42 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Walker reference in view of the Kiyokawa reference. As a *prima facie* case of obviousness has not been established, Applicants respectfully traverse this rejection as hereinafter set forth.

With reference to independent claim 41, a method is recited for analyzing a captured multimedia object which comprises, in part, *automatically* determining one or more adjustments to optimize a multimedia capturing device *without prompting a user*. By way of contrast, as previously stated, the Walker reference discloses a system for suggesting metadata to a camera user that determines the appropriate metadata based on the user's response to questions. Accordingly, it is respectfully submitted that the Walker reference fails to teach or suggest all claim limitations of the currently amended independent claim 41. The addition of the Kiyokawa reference fails to cure this deficiency. Therefore, withdrawal of the 35 U.S.C. § 103(a) rejection of this claim is respectfully requested.

Claim 42 depends from independent claim 41 which, as amended, recites a method for analyzing a captured multimedia object which comprises, in part, *automatically*

determining one or more adjustments to optimize a multimedia capturing device. As previously stated, the Walker and Kiyokawa references fail to teach or suggest all limitations of currently amended independent claim 41. Applicants respectfully submit that claim 42 is allowable at least by virtue of its dependency from allowable claim 41.

As the Walker reference and the Kiyokawa reference, either separately or in combination, do not teach or suggest all of the limitations of claims 41 and 42, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection as to claims 41 and 42. Therefore, as a *prima facie* case of obviousness has not been established for claims 19, 34, 40, 41, and 42, it is respectfully submitted that these claims are in condition for allowance.



**CONCLUSION**

For at least the reasons stated above, claims 1-42 are in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of claims 1-42. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned by telephone prior to issuing a subsequent action.

No other fee is believed due in connection with this Amendment, but the Commissioner is hereby authorized to charge any additional amount required or to credit any overpayment to Deposit Account No. 19-2112.

Date: January 9, 2007

Respectfully submitted,



Abran J. Kean  
Reg. No. 58,540

SHOOK, HARDY & BACON L.L.P.  
2555 Grand Blvd.  
Kansas City, MO 64108-2613  
816-474-6550